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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,543	08/02/2001	Charles L. Vigue	NAIIP275/01.014.01	6834
28875	7590	02/11/2005	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			HENNING, MATTHEW T	
			ART UNIT	PAPER NUMBER
			2131	

DATE MAILED: 02/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/921,543	Applicant(s) VIGUE ET AL.	
	Examiner Matthew T Henning	Art Unit 2131	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This action is in response to the communication filed on 8/2/2001.

DETAILED ACTION

1. Claims 1-21 have been examined.

Title

2. The title of the invention is acceptable.

Priority

3. The application has been filed under Title 35 U.S.C §119, claiming priority to provisional applications I. 60/282,333 filed 4/9/2001, and II. 60/298,681 filed 6/18/2001. Applicant's claim for domestic priority under 35 U.S.C. 119(e) is acknowledged. However, the provisional application I. upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claim 2-3, 9-10, 13-14, and 16-17 of this application. Provisional application I. does not include support for verifying the resource integrity through a the use of a digital signature. There is, however, support for this subject matter in provisional application II.

5. Therefore, the effective filing date for the subject matter defined in the pending claims in this application is 6/18/2001.

Information Disclosure Statement

6. The information disclosure statement (IDS) submitted on 12/11/2003 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner is considering the information disclosure statement.

Drawings

7. The drawings filed on 8/2/2001 are acceptable for examination proceedings.

Claim Rejections - 35 USC § 102

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8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1, 4-8, 11, 15, and 18-21 rejected under 35 U.S.C. 102(e) as being anticipated by Peng (US Patent Number 6,317,754).

10. Regarding claim 1, Peng disclosed a method for securely sharing resources over a peer-to-peer network (See Peng Col. 2 Lines 50-67), comprising: broadcasting a request by a requesting peer for a resource over the peer-to-peer network wherein the request contains an identification of the resource and the resource identification contains a resource version identifier (See Peng Fig. 7 and Cols. 5-6 steps 1 and 3); receiving a response from a responding peer on the peer-to-peer network indicating that the responding peer has the requested resource (See Peng Col. 5 Step 2); retrieving the requested resource from the responding peer (See Peng Col. 6 Step 4); and verifying the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein (See Peng Col. 6 Step 6a).

11. Regarding claim 4, Peng disclosed installing said resource (See Peng Col. 6 Step 6b, and Col 15 Step 9).

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12. Regarding claim 5, Peng disclosed retrieving a catalog containing a listing of resources (See Peng Col. 5 Step 2).

13. Regarding claim 6, Peng disclosed comparing the listing of resources with resources installed at the requesting peer to determine which resources are to be requested over the peer-to-peer network (See Peng Cols. 5-6 Step 3).

14. Regarding claim 7, Peng disclosed requesting each resource to be requested in a separate transaction such that each resource to be requested may be retrieved from a same or different responding peer (See Peng Col. 6 Step 4 wherein each update is sent separately and Col. 2 Lines 58-61).

15. Regarding claim 8, Peng disclosed a product updating service for automatic and secure updating of a product installed at a node of a peer-to-peer network, comprising: automatically downloading a catalog containing a current listing of resources for the product at a predetermined time, each resource being identified by a resource version identifier (See rejection of claim 5 above and further Peng Col. 2 Lines 65-67, and Col. 5 Paragraph 3); comparing the listing of resources in the catalog with resources installed at the node to determine which resources are to be requested over the peer-to-peer network (See Cols. 5-6 Step 3); requesting each resource to be requested in a separate transaction over the peer-to-peer network (See Col. 6 Step 3c); retrieving each resource to be requested from one of a peer in the peer-to-peer network and the Internet (See Peng Col. 6 Step 4 and Col. 2 Paragraph 6); and verifying each received resource by ensuring the retrieved resource contains the version identifier embedded therein (See Peng Col. 6 Step 6a).

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16. Regarding claim 11, Peng disclosed installing each of the retrieved resources (See the rejection of claim 4 above).

17. Regarding claim 15, Peng disclosed a computer program product for securely sharing resources over a peer-to-peer network (See Peng Col. 9 Lines 39-42), comprising: computer code that broadcasts a request by a requesting peer for a resource over the peer-to-peer network wherein the request contains an identification of the resource and the resource identification contains a resource version identifier; computer code that receives a response from a responding peer on the peer-to-peer network indicating that the responding peer has the requested resource; computer code that retrieves the requested resource from the responding peer; computer code that verifies the retrieved resource by ensuring the retrieved resource contains the version identifier embedded therein; and a computer readable medium that stores said computer codes (See the rejection of claim 1 above and further it was inherent that the application was comprised in a computer readable medium in order for the code to have been executed and for the system to have operated).

18. Regarding claim 18, Peng disclosed computer code that installs said resource (See the rejection of claim 4 above).

19. Regarding claim 19, Peng disclosed computer code that retrieves a catalog containing a listing of resources (See the rejection of claim 5 above).

20. Regarding claim 20, Peng disclosed computer code that compares the listing of resources with resources installed at the requesting peer to determine which resources are to be requested over the peer-to-peer network (See the rejection of claim 6 above).

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21. Regarding claim 21, Peng disclosed computer code that requests each resource to be requested in a separate transaction such that each resource to be requested may be retrieved from a same or different responding peer (See the rejection of claim 7 above).

Claim Rejections - 35 USC § 103

22. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

23. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peng, as evidenced by the Microsoft Press Computer Dictionary, hereinafter referred to as Microsoft.

Peng disclosed a method for providing secure updating of a software product, comprising: providing for retrieval over a global network a catalog containing a current listing of resources for the product; and providing for retrieval over a global network the resources for the product, wherein each resource is identified with a resource version identifier and contains the resource version identifier embedded therein (See the rejection of claims 1 and 5 above and Figure 1), but Peng failed to specifically disclose the network being the Internet. However, Peng did disclose the network being “a network of high performance reliable links making up the backbone of the synchronization process to which secondary servers are linked via typically less reliable links” and using TCP/IP. This sort of network is very similar to the Internet.

It would have been obvious to the ordinary person skilled in the art to employ the update system of Peng in the network that is the Internet. This would have been obvious because the ordinary person skilled in the art would have been motivated to utilize the widely available, and highly reliable network that was already available as opposed to building a new network. This is further evidenced by Microsoft, which defines the Internet as “The worldwide collection of networks and gateways that use the TCP/IP suite of protocols to communicate with one another. At the heart of the Internet is a backbone of high-speed data communication lines between major nodes or host computers, consisting of thousands of commercial, government, educational, and other computer systems that route data and messages. Etc.”, which covers the requirements of the network of Peng.

24. Claims 2, 9, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peng as applied to claims 1, 8, 12, and 15 above, and further in view of Shostack et al. (US Patent Number 6,298,445) hereinafter referred to as Shostack.

Peng disclosed verifying the received updates (See the rejection of claim 1 above), but failed to disclose verifying a digital signature of the update.

Shostack teaches an updating system should verify the integrity of updates by checking a digital signature of the update upon receipt of the update and prior to installing the update (See Shostack Fig. 4A Step 110, Fig. 7 and Col. 10 Line 58 – Col. 11 Line 4).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Shostack in the updating system of Peng by verifying a digital signature of each update after receipt and prior to installing the update. This would have been obvious because the ordinary person skilled in the art would have been motivated to protect

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the recipient from update files that had been maliciously tampered with, as well as to prevent security vulnerabilities in the recipient.

25. Claims 3, 10, 14, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Peng and Shostack as applied to claims 2, 9, 13, and 16 above, and further in view of Verisign (Verisign gets US approval for 128-bit key certificates export).

Peng and Shostack disclosed verifying a digital signature of an update file (See rejection of claim 2 above), but failed to disclose the digital signature being a 1024-bit Verisign digital signature.

Verisign teaches that a 1024-bit Verisign digital signature provides digital signatures for today's strongest cryptographic technologies (See Verisign Page 2 Lines 22-25).

It would have been obvious to the ordinary person skilled in the art at the time of invention to employ the teachings of Verisign in the updating system of Peng and Shostack by using a 1024-bit Verisign digital signature for verifying the updates. This would have been obvious because the ordinary person skilled in the art would have been motivated to provide the best security for the updates.

Conclusion

26. Claims 1-21 have been rejected.

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Schleicher et al. (US Patent Application Publication 2002/0138744) disclosed a system for providing secure peer-to-peer file delivery involving digitally signing each version of a file to ensure the integrity of the file.


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b. Reiher et al. ("Peer-to-Peer Reconciliation Based Replication for Mobile Computers") disclosed a system which provides file updates upon request without the utilization of a central server.

28. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew T Henning whose telephone number is (571) 272-3790. The examiner can normally be reached on M-F 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on (571) 272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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2/4/2005



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